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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/929,425	08/13/2001	Stephen F. Gass	SDT 311	9671
27630	7590	08/25/2005	EXAMINER	
SD3, LLC 22409 S.W. NEWLAND ROAD WILSONVILLE, OR 97070			ASHLEY, BOYER DOLINGER	
			ART UNIT	PAPER NUMBER
			3724	

DATE MAILED: 08/25/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/929,425

Applicant(s)

GASS ET AL.

Examiner

Boyer D. Ashley

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 15 June 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-9 and 17-25 is/are pending in the application.
- 4a) Of the above claim(s) 5,6,8,24 and 25 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-4,7,9 and 17-23 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>7/24/05; 6/4/05</u> . | 6) <input checked="" type="checkbox"/> Other: <u>1449's- 2/27/05; 12/19/04</u> . |

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DETAILED ACTION

1. This office action is in response to applicant's amendment filed 6/15/05. Claims 1-7 and 17-25 are pending in the instant application with claims 5, 6, 8, 24, and 25 remaining withdrawn.

Double Patenting

2. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. See *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and, *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.130(b).

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

3. Claims 1-2, 4, 7, 9, 17-20, and 23 are provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 25-30 and 35-40 of copending Application No. 09/676,190 in view of Yoneda. Copending application '782 discloses the invention substantially as claimed except for the detection system only detects a dangerous condition between the user and the blade instead of contact between the user and the blade. However, Yoneda discloses that it is old and well known in the art to use detection systems with cutting tools that detect contact between a user and a blade for the purpose of prevent injury to the user while prevent premature stopping of the tool. Therefore, it would have been obvious to

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one of ordinary skill in the art at the time of the invention was made to a detection system that senses contact instead of dangerous conditions in order to prevent injury to the user and to prevent premature stopping of the tool.

This is a provisional obviousness-type double patenting rejection.

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 1-4, 7, 9, 17, and 20-22 are rejected under 35 U.S.C. 103(a) as being unpatentable over Gaines in view of Lokey or Friemann et al. for the reasons as set forth in paragraph 11 of action dated 7/12/04 and included here.

As to claim 17, the device of modified device Gaines is capable of resting on a generally horizontal surface.

6. Claims 1, 17, 18, and 23 are rejected under 35 U.S.C. 103(a) as being unpatentable over Suzuki et al., U.S. Patent 5,791,224, or Brundage et al., U.S. Patent 4,934,233, in view of Gaines or Terauchi, U.S. Patent 4,512,224, and Lokey or Friemann et al.

Suzuki et al. and Brundage et al. discloses the invention substantially as claimed except for detecting contact between a person and blade, a reaction system to limit/stop movement of the blade into the work zone upon detection of contact between the user and the blade. However, both Gaines and Terauchi discloses stopping movement of a

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cutting tool into the cutting zone upon detecting of unsafe or damaging situation. Lokey discloses that it is old and well known in the art to stop the motion of a circular cutting tool when a dangerous condition is sensed between the user and the blade for the purpose of preventing injury to the user. Friemann et al. discloses that it is old and well known in the art to stop the motion of a cutting tool upon detection of contact between a user and the blade for preventing injury to the user. Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention was made to stop the movement of the blades of Suzuki et al. and Brundage et al. into the work zone upon detecting a dangerous conditions, such as contact between the user and the blade, in order to prevent further injury to the user.

Response to Arguments

7. Applicant's arguments filed 6/15/05 have been fully considered but they are not persuasive.

It should be noted that the double patenting rejections have been withdrawn in light of applicant's comment and after consultation with the Technology Center's SPRE except for 09/676,190. Applicant's comments regarding '190 are not fully appreciated. In line with applicant's arguments only a one-way test is required with '190 as '190 was filed before the instant application. Although, the examiner appreciates applicant's intent of the claim language it should be noted that the phrase, e.g., claim 1, "... adapted to stop motion of the cutting tool into the cutting zone..." is nonetheless anticipated by a reaction system which reverses the movement of the tool relative to the cutting zone because the tool would be stop from continuing into the cutting zone.

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Nothing in the instant claims prevent this interpretation nor does the examiner believe it is unreasonable.

Applicant contends that the detection systems used by Lokey and Friemann do not work with brakes triggered by acceleration like in Gains and therefore the combinations are not obvious. Applicants comments are fully understood; however, the examiner respectfully disagrees for the following reasons. Although, it is true that the mechanism for performing the different functions of Lokey, Friemann and Gains are different applicant has not claimed any structure. Applicant is attempting to claim in very broad terms the functions of his devices without any structure that allows for his device to function in those terms. In this regard, it is hard for the examiner believe that the combinations are incapable of the functions. How is the reaction system adapted to stop the motion of the tool into the cutting zone? What prevents them, Lokey, Friemann, and Gains, from functioning in this same manner? One of ordinary skill in the art could readily modify Gains to stop for any number of reasons.

Applicant contends that Terauchi is non-analogous art because it is outside the filed of endeavor of the applicant and is not reasonably pertinent to the particular problem addressed by the applicant. Applicant further contends that there is no reason to combine Terauchi with Suzuhi or Brundage. However, the examiner respectfully disagrees. In the examiner's opinion Terauchi is both within applicant's field of endeavor and reasonable pertinent. Applicant's claims are generically relative to some type of woodworking machine with safety considerations while Terauchi is relative to a

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cutting device with a safety device. Therefore, they are both related and in the same field of cutting devices with safety devices.

Furthermore, it should be noted that the references need not expressly articulate reasons for combining references. The test for combining references is what the combination of disclosures taken as a whole would suggest to one of ordinary skill in the art. Therefore, Suzuki et al. or Brundage et al. and Terauchi are evaluated by what they suggest to one versed in the art, rather than by their specific disclosures. In this case, the combinations suggest using safety systems with cutting tools that prevent the cutting tool from continuing into a cutting zone upon detection of user. To apply the retraction mechanism of Terauchi with the cutting tools of Suzuki et al. and Brundage et al. would be within the abilities of one of ordinary skill in the art.

8. For the reasons above, the grounds of rejection are deemed proper.

Conclusion

9. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any

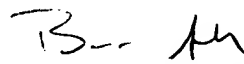
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extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Boyer D. Ashley whose telephone number is 571-272-4502. The examiner can normally be reached on Monday-Thursday 7:30-6:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Allan N. Shoap can be reached on 571-272-4514. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


Boyer D. Ashley
Primary Examiner
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BDA
August 21, 2005